

There are so many reasons to disagree with the proposed rules, it's hard to know where to start.

The Notice asks in paragraph 3:

"[is] a regulatory copy protection regime ... needed within the limited sphere of digital broadcast television?"

And in Appendix A, it answers its own question, saying

"The need for FCC regulation in this area is that the lack of digital broadcast copy protection has been identified as a key impediment to ... transition for DTV."

First off, there is no clear evidence that a shift to DTV is an important enough national goal for the government to interfere in the marketplace. The market should move to DTV at its own pace.

Second, one big reason the market has not yet embraced DTV is simply the horrendous cost to the consumer of the new equipment. This cost is not constant, however. It is falling continuously, driven by developments in the computer industry, which needs many of the same kinds of equipment. The famous Moore's Law, which predicts that computing power drops in price by a factor of two every 18 months, has held true over the last three decades, and has shown no signs of repeal.

The government need not lift a finger to ensure the switch to DTV, as sheer economics will make it imperative at some point, once computer technology has advanced far enough.

This may well happen in the next nine years, during which time computing power will drop in price by a factor of 64 (!), if Moore's Law holds.

Government action to force the transition to happen by some arbitrary deadline would be a significant distortion of the market.

Third, Government action in this matter will likely have as a side effect the unnatural prolongation of copyrights. Consider: no copy protection scheme yet proposed has made provision for copies to become readable after the original copyright term has expired. This is an unacceptable violation of the original intent of the Copyright Act of 1790, which wisely limited the duration of copyrights to 14 years, renewable once. Mandated copy protection would essentially make copyrights immortal unless archival copying were allowed, and archived copies contained a time release mechanism which released them from copy protection after the original term of the copyright lapsed.

Fourth, by mandating effective copy protection, the Government would be slamming the door on the vital cooperation of amateur radio operators and software hobbyists who have contributed so many technical achievements to the state of the art. This is an insult to their pioneering spirit, and is a terrible way to thank them for their contributions; but worse, it is stifling the innovations they would otherwise contribute to the future state of the art. We cannot foresee what innovations we might be giving up in exchange for a slight speedup in the transition to DTV.

Fifth, the nature of digital technology is such that, to be effective, any copy-protection regime must necessarily be draconian, and would effectively prevent general-purpose computers from being used to their full potential. Do not believe the representatives of large media companies who assure you that copy protection is a simple, painless operation; it is instead tantamount to a lobotomy of the general purpose computer. The "Trusted Computing Platform Alliance" and Microsoft's Palladium Initiative are two current efforts to produce computers which can *only run programs approved by a central authority*, as this is the only way to implement effective copy protection.

As software and computers become increasingly important in our lives, the idea of submitting every piece of software one runs to a central authority, be it Microsoft or be it the Federal Government, is an incredibly foolish and dangerous thing to promote.

Sixth, it is unlikely that any effective copy protection regime could make adequate allowance for traditional fair use of copyrighted material.

I could go on, but the above six considerations make it abundantly clear to me and to every person I have talked with that the paltry five or ten year speedup in transition to DTV that the proposed rules aim to accomplish pale in comparison with the amazingly broad implications of the proposed rules for our freedom and future innovations. I urge the commission to drop the idea of mandated copy protection.

Sincerely,
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